

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2895 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

SABARKANTHA DISTRICT PANCHAYAT CLASS III EMPLOYEES' ASSN.

Versus

STATE OF GUJARAT

Appearance:

MR AM Raval for Petitioner

No one is present on behalf of the respondents despite service.

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 18/06/98

ORAL JUDGEMENT

This Special Civil Application is filed by Sabarkantha District Panchayat Class III Non-technical Employees' Association, for and on behalf of the 34 employees whose names have been included in Annexure 'A' to the petition, with details thereof such as posting, qualifications and date of appointment. The challenge was thrown to the advertisement Annexure 'B' that is notice inviting application for Multi Purpose Health

Workers. Notice was issued to the respondents on 26th June, 1987, and the same was made returnable on 3rd July, 1987. Affidavit-in-reply was filed on behalf of respondent no.3 on 22nd July, 1987. Thereafter rule was issued on 18th June, 1990. On the same date, by way of interim relief respondents were directed to maintain status-quo regarding petitioner's service as on that day, till further orders. This interim order is still in force. Thereafter, no further reply has been filed by respondent no.3 and no reply whatsoever on behalf of respondents no.1 and 2.

2. I have gone through the pleadings of the parties as filed on behalf of the petitioner and the respondent no.3. So far as the challenge to the notice inviting application i.e. Annexure 'B' advertisement published in Gujarat Samachar dtd.9th June, 1987 is concerned, I find that this advertisement cannot be assailed merely because there were some changes in conditions of eligibility for the post of Multi Purpose Health Worker. The employees whose names are included in Annexure 'A' to the petition, and the employees who had been appointed prior to the framing of the rules have no locus standi to challenge this advertisement and the advertisement cannot be strucked down at their instance.

3. It has been stated on behalf of respondent no.3 in the reply dated 22.7.87 that, out of these 34 employees, some were appointed in the year 1979, some were in the year 1981, 1982 & 1983, and therefore, it is clear that these employees were continuing in service for the period of four to seven years at the time when the present petition was filed in the year 1987.

4. The learned counsel for the petitioner has submitted that all these employees are still continuing in service, there is no one on behalf of respondents to controvert this position and the interim order which is passed in 1990 is also in force till today. In this view of the matter, it appears that these employees may be continuing in service even upto now. By this time they may have completed 14 to 17 years of service. Of course, the fact remains that they have not faced the regular recruitment in accordance with rules. However, the learned counsel for the petitioner submits that all these employees were appointed through Employment Exchange. In the facts and circumstances of this case, it is ordered that in case, all these 34 employees or any of them are continuing in service, their/his services shall not be terminated except in accordance with law, and the respondents may consider their case for the purpose of

regularisation and for appointment by promotion to the higher posts in accordance with law subject to their qualifications, eligibility and other essential conditions, but, in doing so, the rights of any regularly recruited employee appointed during the period of their working shall not be jeopardised.

5. This Special Civil Application is, therefore, partly allowed in the terms as aforesaid. Rule is made absolute accordingly. No order as to costs.

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